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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,223	04/17/2004	Joseph J. Sacco	Sacco 1-1	1168

7590
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01/24/2007

EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT

PAPER NUMBER

3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/826,223

Applicant(s)

SACCO ET AL.

Examiner

Timothy M. Ayres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc. Particular the phrase "present invention" in line 5 of the abstract.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-17 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claims 1, 3, 6-8, 9, and 11, when "one or more" "pages" or "sheet material" is claimed then the following reference to the "one or more" "pages" or "sheet material" should be referred to as "said one or more..." or "said at least one" and not referred to as "said pages" or "said sheets" which renders the claims indefinite by referring to multiple sheets or multiple pages when only one has been claimed.

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5. Regarding claim 6 and 7, it is unclear to what "at least one page" is one sheet of material or just a portion or something else.

6. Regarding claims 3, 8, 11, and 16, the phrase "other said pages", "other said sheets", "between adjacent sheets", and "between adjacent pages" renders the claims indefinite since only "at least one page" is claimed so far.

7. Regarding claim 14, "one side of at least one page of said one or more pages" is redundant and needs to only refer to the "one of more pages" and not also "at last one page" since only one page is currently being claimed.

8. Regarding claim 20, claim 20 refers the method of claim 1, claim 1 is directed to an apparatus and does not comprise a method, furthermore claim 1 is to the subcombination of just the apparatus having a cabinet with shelving as describing the general environment.

Claim Rejections - 35 USC § 103

9. Claims 1, 2, 4, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,326,832 to Baily in view of US Patent 1,624,741 to Leppke. Baily teaches a cabinet (1) that has a door (2) with a plurality of rigid sheet material or pages (5) for display. The pages (5) have hinge tubes/mechanism (6,9) integral formed such that a hinge pin (8) insertable therein. Note that it has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as fasteners and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973). The hinge pin (8) is attached to the cabinet with a flange housing (7) by being inserted therein. The hinge mechanism

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(9) is offset at angles as seen in figure 2. Baily does not expressly disclose the pages being attachable by a magnet. Leppke teaches a sheet (1) that can attract magnets in order to display letters or other known magnet objects. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets/pages of Baily by making them capable of receiving magnets as taught by Leppke to be able attach magnets of letters for display or education purposes (Leppke '741, Lines 28-40). Baily supports this modification by saying that the sheets/pages can be made of any desired materials to secure indicia and especially useful in school works (Baily '832, page 1, lines 94-11; page 2, lines 6-9). The method is obvious given this structure. Note: stationary kitchen-type cabinet is considered nomenclature and that any cabinet is capable of being made stationary and put in the kitchen.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,326,832 to Baily in view of US Patent 1,624,741 to Leppke as applied to claims 1, 2, 4, and 8 above, and further in view of US Patent 752,463 to Morris. Baily in view of Leppke discloses every element as claimed and discussed above except tab sections. Morris teaches a cabinet with pages (E) with tab sections on the edges to allow a user to access the correct page of the first aid manual. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets of Baily in view of Leppke by adding tabs as taught by Morris to allow faster and easier access to the correct page.

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11. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,326,832 to Baily in view of US Patent 1,624,741 to Leppke as applied to claims 1, 2, 4, and 8 above, and further in view of US Patent 4,852,282 to Selman. Baily in view of Leppke discloses every element as claimed and discussed above except an erasable surface for non-permanent markers. Selman teaches a calendar for a refrigerator that has a surface adapted for erasably receiving writing ink thereon. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheet/pages of Baily in view of Leppke by making the surface of a page erasable for non-permanent markers as taught by Selman to allow the surface to be reusable.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,326,832 to Baily in view of US Patent 1,624,741 to Leppke and US Patent 4,852,282 to Selman as applied to claim 6 above, and further in view of US Patent 2,180,224 to Devall. Baily in view of Leppke and Selman discloses every element as claimed and discussed above except the sheets magnetically adhered to one another. Devall teaches rotating sheets/pages that are attached together via snaps fasteners (23). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets/pages of Baily in view of Leppke and Selman by adding fasteners on the pages as taught by Devall to allow some of the pages to be separated from the others in units. Regarding then pages being magnetically adhered, it would have been obvious to one having ordinary skill in the art at the time of the

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invention was made to use a magnet fastener versus a snap fastener since they are functional equivalents and, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

13. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,326,832 to Baily in view of US Patent 1,624,741 to Leppke and US Patent 4,852,282 to Selman as applied to claim 6 above, and further in view of US Patent 1,881,636 to Johnson. Baily in view of Leppke and Selman discloses every element as claimed and discussed above except the pages includes a chalkboard surface. Johnson teaches a portable chalkboard with panels that are hingable together. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify a page of Baily in view of Leppke and Selman by making a portion of it a chalkboard material as taught by Johnson to enable writing indicia on it.

14. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,326,832 to Baily in view of US Patent 1,624,741 to Leppke as applied to claim 1, 2, 4, and 8 above, and further in view of US Patent 2,180,224 to Devall. Baily in view of Leppke discloses every element as claimed and discussed above except the sheets magnetically adhered to one another. Devall teaches rotating sheets/pages that are attached together via snap fasteners (23). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets/pages of Baily

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in view of Leppke by adding fasteners on the pages as taught by Devall to allow some of the pages to be separated from the others in units. Regarding then pages being magnetically adhered, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use a magnet fastener versus a snap fastener since they are functional equivalents and, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Note: stationary kitchen-type cabinet is considered nomenclature and that any cabinet is capable of being made stationary and put in the kitchen.

15. Claims 1, 2, 4, 8-10, 12, 16, 19, and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,251,637 to Parsons in view of US Patent 2,895,233 to Welch and US Patent 1,326,832 to Bailly. Parsons teaches a cabinet (10) with shelves (14) and a door (16). A sheet of planar material (25,26) is hingable attached via mounts (24) to the cabinet and has a mirror (26) on one side surrounded by a frame (25). The mounts (24) have a hole in them as seen in figure 1 to receive a hinge pin from the frame (25). Parsons does not expressly disclose the sheet of planar material with a side that can receive a magnet and a hinge tube and hinge pin. Welch teaches a sheet material (13) that magnets (24) can be attached to. The sheet material has an outline of one map (16) as seen in figure 1 as the Americas and can have other maps rolled out and attached to via clamp means (21). At the time of the invention it would have been

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obvious for a person of ordinary skill in the art to modify the cabinet of Parsons by adding a sheet material to the back of the mirror so that maps and magnetic markers are in a convenient location while camping.

16. Parson in view of Welch does not expressly disclose a hinge tube and hinge pin. Baily teaches a cabinet (1) that has a door (2) with a plurality of rigid sheet material or pages (5) for display. The pages (5) have hinge tubes/mechanism (6,9) integral formed such that a hinge pin (8) insertable therein. Note that it has been held that the term "integral is sufficiently broad to embrace constructions united by such means as fasteners and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973). The hinge pin (8) is attached to the cabinet with a flange housing (7) by being inserted therein. The hinge mechanism (9) is offset at angles as seen in figure 2. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the cabinet of Parsons in view of Welch by adding the hinge structure as taught by Baily to allow for multiple frames to display multiple maps or other printed material. Regarding claim 19, the method is obvious given the structure described above. Note: stationary kitchen-type cabinet is considered nomenclature and that any cabinet is capable of being made stationary and put in the kitchen.

17. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,251,637 to Parsons in view of US Patent 2,895,233 to Welch and US Patent 1,326,832 to Baily as applied to claims 1, 2, 4, 8-10, 12, 16, 19, and 20 above, and further in view of US Patent 752,463 to Morris. Parson in view of Welch and Baily

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discloses every element as claimed and discussed above except tab sections. Morris teaches a cabinet with pages (E) with tab sections on the edges to allow a user to access the correct page of the first aid manual. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets of Parson in view of Welch and Baily by adding tabs as taught by Morris to allow faster and easier access to the correct page.

18. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,251,637 to Parsons in view of US Patent 2,895,233 to Welch and US Patent 1,326,832 to Baily as applied to claims 1, 2, 4, 8-10, 12, 16, 19, and 20 above, and further in view of US Patent 4,852,282 to Selman. Parson in view of Welch and Baily discloses every element as claimed and discussed above except an erasable surface for non-permanent markers. Selman teaches a calendar for a refrigerator that has a surface adapted for erasably receiving writing ink thereon. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheet/pages of Parson in view of Welch and Baily by making the surface of a page erasable for non-permanent markers as taught by Selman to allow the surface to be reusable.

19. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,251,637 to Parsons in view of US Patent 2,895,233 to Welch, US Patent 1,326,832 to Baily, and US Patent 4,852,282 to Selman as applied to claim 6 above,

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and further in view of US Patent 2,180,224 to Devall. Parson in view of Welch, Baily, and Selman discloses every element as claimed and discussed above except the sheets magnetically adhered to one another. Devall teaches rotating sheets/pages that are attached together via snaps fasteners (23). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets/pages of Parson in view of Welch, Baily, and Selman by adding fasteners on the pages as taught by Devall to allow some of the pages to be separated from the others in units.

Regarding then pages being magnetically adhered, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use a magnet fastener versus a snap fastener since they are functional equivalents and, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

20. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,251,637 to Parsons in view of US Patent 2,895,233 to Welch and US Patent 1,326,832 to Baily as applied to claims 1, 2, 4, 8-10, 12, 16, 19, and 20 above, and further in view of US Patent 2,180,224 to Devall. Parson in view of Welch and Baily discloses every element as claimed and discussed above except the sheets magnetically adhered to one another. Devall teaches rotating sheets/pages that are attached together via snaps fasteners (23). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets/pages of

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Parson in view of Welch and Baily by adding fasteners on the pages as taught by Devall to allow some of the pages to be separated from the others in units. Regarding then pages being magnetically adhered, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use a magnet fastener versus a snap fastener since they are functional equivalents and, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

21. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,251,637 to Parsons in view of US Patent 2,895,233 to Welch, US Patent 1,326,832 to Baily, and US Patent 4,852,282 to Selman as applied to claim 6 above, and further in view of US Patent 1,881,636 to Johnson. Parson in view of Welch, Baily, and Selman discloses every element as claimed and discussed above except the pages includes a chalkboard surface. Johnson teaches a portable chalkboard with panels that are hingable together. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify a page of Parson in view of Welch, Baily, and Selman by adding a portion a chalkboard material as taught by Johnson to enable writing indicia on it.

22. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,251,637 to Parsons in view of US Patent 2,895,233 to Welch and US Patent

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1,326,832 to Baily as applied to claims 1, 2, 4, 8-10, 12, 16, 19, and 20 above, and further in view of US Patent 1,881,636 to Johnson. Parson in view of Welch and Baily discloses every element as claimed and discussed above except the pages includes a chalkboard surface. Johnson teaches a portable chalkboard with panels that are hingable together. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify a page of Parson in view of Welch and Baily by adding a portion a chalkboard material as taught by Johnson to enable writing indicia on it.

23. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,251,637 to Parsons in view of US Patent 2,895,233 to Welch and US Patent 1,326,832 to Baily as applied to claims 1, 2, 4, 8-10, 12, 16, 19, and 20 above, and further in view of US Patent 2,527,132 to Jackson. Parson in view of Welch and Baily discloses every element as claimed and discussed above except the hinge pin spring loaded. Jackson teaches rotating shelves with a shaft/hinge pin that is received in a flange housing (24) and is spring loaded (16). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the apparatus of Parson in view of Welch and Baily by using the mounting mechanism that is spring loaded as taught by Jackson to make it easy to be removed or added in as a complete unit.

24. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,251,637 to Parsons in view of US Patent 2,895,233 to Welch and US Patent

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1,326,832 to Baily as applied to claims 1, 2, 4, 8-10, 12, 16, 19, and 20 above, and further in view of US Patent 2,180,224 to Devall. Parsons in view of Welch and Baily discloses every element as claimed and discussed above except the sheets magnetically adhered to one another. Devall teaches rotating sheets/pages that are attached together via snaps fasteners (23). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets/pages of Parsons in view of Welch and Baily by adding fasteners on the pages as taught by Devall to allow some of the pages to be separated from the others in units. Regarding then pages being magnetically adhered, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use a magnet fastener versus a snap fastener since they are functional equivalents and, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Note: stationary kitchen-type cabinet is considered nomenclature and that any cabinet is capable of being made stationary and put in the kitchen.

Response to Arguments

25. Applicant's arguments filed 10/30/06 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

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where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Baily in view of Leppke, the motivation is that Baily is a cabinet for generally displaying indicia on multiple boards and Leppke teaches a specific way that indicia can be attached to a board. Regarding the magnetic fasteners, they are still considered functional equivalent to the strap fastener of Duvall since the applicant has not given a specific reason as to why they are not function equivalent to each other or work equally well that is not known in the prior art. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

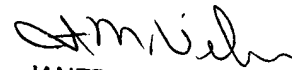
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA
1/22/07



JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637